

AMENDED IN ASSEMBLY MAY 7, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2724**

**Introduced by Assembly Member Cardenas**  
**(Coauthors: Assembly Members Aroner, Knox, Kuehl, and**  
**Washington)**  
**(Coauthors: Senators Solis and Watson)**

February 23, 1998

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An act to amend Section 704.080 of the Code of Civil Procedure, relating to debtor-creditor relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2724, as amended, Cardenas. Judgments: exemptions.

Existing law specifies exemptions from the enforcement of a money judgment, including an exemption for payments authorized by the Social Security Administration that are directly deposited into an account.

This bill would extend the applicability of this exemption for payments of public benefits, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 704.080 of the Code of Civil
- 2 Procedure is amended to read:
- 3 704.080. (a) For the purposes of this section:

1 (1) “Deposit account” means a deposit account in  
2 which payments of public benefits are directly deposited  
3 ~~by the government.~~

4 (2) “Public benefits” means payments authorized by  
5 the Social Security Administration for regular retirement  
6 and survivors’ benefits, supplemental security income  
7 benefits, coal miners’ health benefits, and disability  
8 insurance benefits. “Public benefits” also means aid  
9 payments authorized pursuant to subdivision (a) of  
10 Section 11450 of the Welfare and Institutions Code,  
11 payments for supportive services as described in Section  
12 11323.2 of the Welfare and Institutions Code, and general  
13 assistance payments made pursuant to Section 17000.5 of  
14 the Welfare and Institutions Code.

15 (b) A deposit account is exempt without making a  
16 claim in the following amount:

17 (1) Two thousand dollars (\$2,000) where one  
18 depositor is the designated payee of the directly  
19 deposited payments.

20 (2) Three thousand dollars (\$3,000) where two or  
21 more depositors are the designated payees of the directly  
22 deposited payments, unless those depositors are joint  
23 payees of directly deposited payments which represent a  
24 benefit to only one of the depositors, in which case the  
25 exempt amount is two thousand dollars (\$2,000).

26 (c) The amount of a deposit account that exceeds the  
27 exemption provided in subdivision (b) is exempt to the  
28 extent that it consists of payments of public benefits.

29 (d) Notwithstanding Article 5 (commencing with  
30 Section 701.010) of Chapter 3, when a deposit account is  
31 levied upon or otherwise sought to be subjected to the  
32 enforcement of a money judgment, the financial  
33 institution that holds the deposit account shall either  
34 place the amount that exceeds the exemption provided  
35 in subdivision (b) in a suspense account or otherwise  
36 prohibit withdrawal of that amount pending notification  
37 of the failure of the judgment creditor to file the affidavit  
38 required by this section or the judicial determination of  
39 the exempt status of the amount. Within 10 business days  
40 after the levy, the financial institution shall provide the

levying officer with a written notice stating (1) that the deposit account is one in which payments of public benefits are directly deposited ~~by the government~~ and (2) the balance of the deposit account that exceeds the exemption provided by subdivision (b). Promptly upon receipt of the notice, the levying officer shall serve the notice on the judgment creditor. Service shall be made personally or by mail.

(e) Notwithstanding the procedure prescribed in Article 2 (commencing with Section 703.510), whether there is an amount exempt under subdivision (c) shall be determined as follows:

(1) Within five days after the levying officer serves the notice on the judgment creditor under subdivision (d), a judgment creditor who desires to claim that the amount is not exempt shall file with the court an affidavit alleging that the amount is not exempt and file a copy with the levying officer. The affidavit shall be in the form of the notice of opposition provided by Section 703.560, and a hearing shall be set and held, and notice given, as provided by Sections 703.570 and 703.580. For the purpose of this subdivision, the “notice of opposition to the claim of exemption” in Sections 703.570 and 703.580 means the affidavit under this subdivision.

(2) If the judgment creditor does not file the affidavit with the levying officer and give notice of hearing pursuant to Section 703.570 within the time provided in paragraph (1), the levying officer shall release the deposit account and shall notify the financial institution.

(3) The affidavit constitutes the pleading of the judgment creditor, subject to the power of the court to permit amendments in the interest of justice. The affidavit is deemed controverted and no counteraffidavit is required.

(4) At a hearing under this subdivision, the judgment debtor has the burden of proving that the excess amount is exempt.

(5) At the conclusion of the hearing, the court by order shall determine whether or not the amount of the deposit account is exempt pursuant to subdivision (c) in whole or

1 in part and shall make an appropriate order for its prompt  
2 disposition. No findings are required in a proceeding  
3 under this subdivision.

4 (6) Upon determining the exemption claim for the  
5 deposit account under subdivision (c), the court shall  
6 immediately transmit a certified copy of the order of the  
7 court to the financial institution and to the levying officer.  
8 If the order determines that all or part of the excess is  
9 exempt under subdivision (c), with respect to the  
10 amount of the excess which is exempt, the financial  
11 institution shall transfer the exempt excess from the  
12 suspense account or otherwise release any restrictions on  
13 its withdrawal by the judgment debtor. The transfer or  
14 release shall be effected within three business days of the  
15 receipt of the certified copy of the court order by the  
16 financial institution.

17 (f) If the judgment debtor claims that a portion of the  
18 amount is exempt other than pursuant to subdivision (c),  
19 the claim of exemption shall be made pursuant to Article  
20 2 (commencing with Section 703.510). If the judgment  
21 debtor also opposes the judgment creditor's affidavit  
22 regarding an amount exempt pursuant to subdivision (c),  
23 both exemptions shall be determined at the same  
24 hearing, provided the judgment debtor has complied  
25 with Article 2 (commencing with Section 703.510).

